



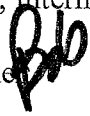
MAYOR BOB FILNER
CITY OF SAN DIEGO

M E M O R A N D U M

DATE: May 22, 2013

TO: Stacey LoMedico, Director, Park and Recreation
Javiar Mainar, Fire Chief

CC: Scott Chadwick, Interim COO

FROM: Mayor Bob Filner 

SUBJECT: Emergency Findings under the Marine Mammal Protection Act of 1972

It has been brought to my attention, and I have personally observed, that a dangerous accumulation of animal waste has developed on the rocks and in areas surrounding the La Jolla Cove. Over the course of years, cormorants, gulls, pigeons, pelicans and other animals have fouled the area such that the stench and odors are constant at the Cove and are, at times, overwhelming. Those who work or live in close proximity to the Cove complain of severe headaches and nausea. The powerful smell often wafts over the entire village commercial district.

In light of these circumstances, I hereby issue the following emergency finding that it is necessary for the protection of the public health, safety and welfare to clean up and remove the animal waste at La Jolla Cove. I further find that, although the act of cleaning up and removing the animal waste might affect or disturb the seals at or near the Cove, these acts are entirely necessary to protect human health and welfare. Finally, I find that, because of the need to protect human health and welfare in this manner, the act of cleaning up and removing the animal waste is exempt from the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. §1361, *et seq.* (the "MMPA").

FINDINGS

Nature of the Emergency: Over the course of years, cormorants, gulls, pigeons and pelicans have fouled the beach and rock areas surrounding La Jolla Cove such that the stench and odors are constant and are, at times, overwhelming. Those who work or live in proximity to the Cove complain of severe headaches and nausea. The smell often wafts over the entire village commercial district. Tourists who have visited the area have complained of the stench to the point that they and other tourist agencies warn people away from visiting the Cove.

Unfortunately, a mass accumulation of animal waste is more than just a nuisance; it is a public health hazard. Large populations of birds roosting at a location over time can present a danger and risk of disease to people nearby. The most serious health risks arise from disease organisms that can grow in the animal waste, feathers and debris that accumulate at a roost. External parasites may also become a problem when infested birds leave the roost or nest, which parasites can then affect people and invade nearby buildings. Such disease organisms can result in illnesses such as histoplasmosis, cryptococcosis, and psittacosis.

Cause of the Emergency: Over the course of years, cormorants, gulls, pigeons and pelicans have fouled the beach and rock areas surrounding La Jolla Cove such that the stench and odors are constant and are, at times, overwhelming. The threat to human health constitutes a public health and welfare emergency.

Location of the Emergency: The rocks and areas surrounding the La Jolla Cove.

Remedial Measures Necessary to Address the Emergency: Clean up and remove the animal waste on the rocks surrounding the La Jolla Cove.

Consequences of Failure to Take Emergency Action: Physical disease and discomfort may result to humans if emergency action is not taken. Such diseases and discomfort may range from headaches and nausea (common) to forms of histoplasmosis, cryptococcosis and psittacosis (rare). Even if rare, these diseases can be life-threatening to those with compromised immune systems, such as the elderly and the very young.

Emergency Action Required: I hereby find that an emergency exists that requires action more quickly than would be permitted by the normal processes for acquiring an "incidental harassment permit" under the MMPA from the National Oceanic and Atmospheric Administration ("NOAA"). Further, in light of §109(h), I believe the City is expressly exempted from the MMPA provisions requiring such a permit in light of the need to protect the public health and welfare.

With these findings in mind, I hereby direct the appropriate Departments to act as necessary to ensure the safe and prompt cleaning up and removal of the animal waste from the rocks and areas surrounding the La Jolla Cove.